

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

ORDER NO. 2001-179

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST
TRIMARK PACIFIC HOMES, L. P.
NONCOMPLIANCE WITH ORDER NO. 99-08-DWQ**

The San Diego Regional Water Quality Control Board (hereinafter SDRWQCB), having held a public hearing on June 13, 2001, to hear evidence and comments on the allegations contained in Complaint No. 2001-62, dated May 15, 2001, and on the recommendation for administrative assessment of Civil Liability in the amount of \$33,481 finds as follows:

1. On August 30, 2001 Trimark Pacific Homes, L. P. submitted a Notice of Intent to comply with the terms of Order No. 99-08-DWQ, *National Pollutant Discharge Elimination System Permit (NPDES) General Permit for Storm Water Discharges Associated With Construction Activity (General Permit)*.
2. On March 2, 2001 Trimark Pacific Homes, L. P. negligently discharged 112,208 gallons of sediment laden storm water from a desilting pond to a tributary to Sweetwater River in violation of Discharge Prohibitions A.2 and A.3 and Section A.9 of Order No. 99-08-DWQ.
3. The discharge occurred two days after the SDRWQCB conducted a compliance assurance inspection during which Trimark Pacific Homes, L. P. representatives were notified that discharges from desilting ponds without filtration were in violation of the requirements for best available technology pollution reduction in storm water discharges .
4. Trimark Pacific Homes, L. P. failed to develop and implement an adequate Storm Water Pollution Prevention Plan (SWPPP) for site grading commencing on January 17, 2001 through March 26, 2001 in violation of Provision C.2 of Order No. 99-08-DWQ.
5. Trimark Pacific Homes, L. P.'s failure to develop and implement an adequate SWPPP resulted in large graded inactive areas of the development having no erosion control, no vehicle maintenance area best management practices and improperly installed silt fences. The sediment controls implemented on site were inadequate to prevent the discharge of pollutants to the municipal storm drain system and waters of the United States.

6. Consideration of the factors addressed in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. 2001-62, Trimark Pacific Homes, L. P., Noncompliance with Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated With Construction Activity (General Permit), May 15, 2001*, supports the assessment of civil liability in the amount of \$33,481 based on \$22,681 for the March 2, 2001 discharge and \$6,800 for failure to develop and implement and adequate SWPPP for 68 days, and is hereby incorporated into this order.
7. The State Water Resources Control Board Guidance to Implement the Water Quality Enforcement Policy Contains an Assessment Matrix as seen below. Based upon the determination of the Compliance Significance (Discharger) and Environmental Significance (Discharge) a range of civil liability is provided. The matrix assists the SDRWQCB in determining whether the proposed administrative civil liability is appropriate.

Assessment Matrix


Compliance Significance (Discharger)	Environmental Significance (Discharge)		
	Minor	Moderate	Major
Minor	\$100 - \$2,000	\$1,000 - \$20,000	\$10,000 - \$100,000
Moderate	\$1,000 - \$20,000	\$10,000 - \$100,000	\$50,000 - \$200,000
Major	\$10,000 - \$100,000	\$50,000 - \$200,000	\$100,000 to maximum amount

The negligent discharge of 112,208 gallons of sediment laden storm water to a tributary to Sweetwater River is of moderate environmental significance. The intentional dewatering of the desilting basin two days after being instructed by the SDRWQCB that dewatering without filtration is prohibited is of major compliance significance. The proposed administrative civil liability of \$22,681 for this violation is within the matrix.

Failure to identify and construct best management practices to prevent the discharge of sediment to waters of the United States is of moderate environmental significance. The failure to identify and construct best management practices when choosing to commence grading during the rainy season is of major compliance significance. The proposed administrative civil liability of \$6,800 for

this violation is not within the matrix.

7. The SDRWQB incurred costs totaling \$4,480 which includes field investigations, preparation of enforcement documents and public hearings.
8. This enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with Section 13389 of the California Water Code.
9. **IT IS HEREBY ORDERED** that civil liability is imposed on Trimark Pacific Homes, L. P. in the amount of thirty three thousand four hundred eighty one dollars (\$33,481).



JOHN H. ROBERTUS
Executive Officer